

RESOLUTION NO. 839

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY RECORDER TO CERTIFY TO THE CLACKAMAS COUNTY CLERK A MEASURE REFERRING TO THE ELECTORATE A PROPOSED ANNEXATION OF 40.54 ACRES DESCRIBED AS TAX LOT 2300 OF TAX MAP 4-1E-03 AND TAX LOT 1200 OF TAX MAP 4-1E-04D LOCATED IN THE SOUTHEAST QUADRANT OF THE CITY, ON THE SOUTH SIDE OF SE 17TH AVENUE, EAST OF S. IVY STREET AND NORTH OF THE MOLALLA RIVER; AUTHORIZING THE CITY RECORDER TO SEND AN EXPLANATORY STATEMENT FOR THE VOTER'S PAMPHLET; AND DOING ALL OTHER NECESSARY ACTS TO PLACE THE MATTER BEFORE THE VOTERS OF THE CITY OF CANBY FOR THE NOVEMBER 4, 2003 ELECTION.

WHEREAS, the Canby City Council has heretofore approved an application filed by Reniassance Development, as applicant for Harvey and D'Anne Tofte, owners of tax lot 2300 of Tax Map 4-1E-03 and tax lot 1200 of Tax Map 4-1E-04D, to annex 40.54 acres into the City of Canby; and

WHEREAS, pursuant to the provisions of the Canby City Charter, the approval of the proposed annexation must be referred to the electorate of the City of Canby for an election; and

WHEREAS, ORS 250.035 requires a Notice of Measure be prepared by the City and submitted to the Clackamas County Elections Department by September 4, 2003 in order to appear on the ballot for the November 4, 2003 election; and

WHEREAS, pursuant to the Canby Municipal Code, the Canby City Attorney has prepared a Notice of City Measure Election and Summary for Voter's Pamphlet to be submitted to the Elections Department;

NOW THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Canby, as follows:

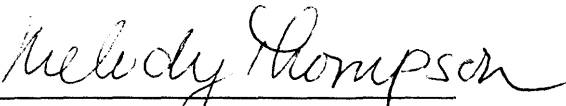
1. The City Recorder of the City of Canby is hereby authorized and directed to certify to the Clackamas County Clerk for submission to the voters at the November 4, 2003 election, the Notice of City Measure. Such Notice of City Measure Election is attached to this Resolution in proper form and adopted by the City.
2. The City Recorder of the City of Canby is further authorized and directed to submit a Summary of the Measure to be placed in the voter's pamphlet explaining in clear and concise language the affect of such ballot measure. Such summary is

attached to this Resolution in proper form and adopted by the City.

3. The City Recorder, the City Administrator and the City Attorney are hereby authorized to do all other necessary and proper acts to place the ballot measure before the voters at the November 4, 2003 election.


This Resolution shall take effect on July 16, 2003.

ADOPTED this 16th day of July, 2003, by the Canby City Council.



Melody Thompson - Mayor

ATTEST:



Chaunee Seifried
City Recorder, Pro-Tem

**BEFORE THE CITY COUNCIL
OF THE
CITY OF CANBY**

A REQUEST TO ANNEX TWO)	FINDINGS, CONCLUSIONS & FINAL ORDER
TAXLOTS TOTALING 40.54)	ANN 03-03
ACRES OF LAND INTO THE)	(Renaissance Homes)
CITY OF CANBY)	

NATURE OF APPLICATION

The applicants are seeking to annex two taxlots totaling 40.54 acres into the City of Canby. Both tax lots are currently vacant. If annexed, the applicant intends to build single family homes in several phases as well as dedicate and develop several parks.

HEARINGS

The Planning Commission held a public hearing and considered this application at its meeting of May 27, 2003. The City Council held a public hearing and considered this application at its meeting of July 2, 2003.

CRITERIA AND STANDARDS

The Planning Commission forms a recommendation that the City Council may consider after conducting a public hearing. If the City Council approves the application, it forwards its recommendation to the voters of Canby as a ballot measure where a final decision is reached during a general election.

Section 16.84.040 of the Canby Municipal Code states that when reviewing a proposed annexation, the Commission shall give ample consideration to the following:

1. Annexation shall be in keeping with prioritization categories, as designated on the adopted maps showing growth phasing (Urban Growth Element of the Comprehensive Plan).
2. Analysis of the "need" for additional property within the city limits shall be provided.
3. Smaller non-farm land shall be considered a priority for annexation over larger farm land;
4. Access shall be adequate to the site;
5. Adequate public facilities and services shall be available to service the

- potential (or proposed) development;
6. Compliance with other applicable city ordinances or policies;
 7. Compliance of the application with the applicable sections of Oregon Revised Statutes Chapter 222. (In other words, a triple majority type application must contain proof that a triple majority does, in fact, exist, etc.);
 8. Risk of natural hazards which might be expected to occur on the subject property shall be identified;
 9. Urbanization of the subject property shall not have a significant adverse effect on specially designated open space, scenic, historic or natural resource areas;
 10. Economic impacts which are likely to result from the annexation shall be evaluated in light of the social and physical impacts. The overall impact which is likely to result from the annexation and development shall not have a significant adverse effect on the economic, social and physical environment of the community, as a whole.

FINDINGS AND REASONS

The City Council deliberated on all input presented at the July 2, 2003 meeting, and incorporates the May 16, 2003 and June 24, 2003 staff reports and Council deliberations as support for its decision. The City Council accepted and adopted the findings in the May 16, 2003 and June 24, 2003 staff reports and Planning Commission findings in so far as they do not conflict with the following supplemental finding:

1. The Council found, based on new survey data provided by the applicant, that the actual area to be annexed is approximately 40.54 acres as opposed to the 49 acres originally stated. The change is a result of a more accurate survey delineation of the City's southern Urban Growth Boundary which is defined as the "bluff line above the Molalla River".
2. The Council found that the applicant's proposed change to the development agreement language meets the intent of the original language approved by the Planning Commission. The original language read: "The applicant shall agree to construct the development in a minimum of three phases, at a rate of no more than one phase per year." The amended language reads: "The applicant shall agree to construct the development with three or more phases, platting no more than 50 lots in any specific calendar year, which will result in the project completion in 3-4 years."

CONCLUSION

The City Council of the City of Canby concludes that, based on the findings and conclusions contained in the May 16, 2003 and June 24, 2003 staff reports, and from Planning Commission and City Council deliberations at the May 27, 2003 and July 2, 2003 public hearings:

1. The land is designated as a mix of Priority "A", "B", and "C" land with the majority of land being designated as Priority "C" for annexation. Despite the Priority "C" designation, the applicant has demonstrated that: 1) the annexation is appropriate in terms of the timing for city growth and development; 2) that there will be a special benefit to

the city overall as a result of the coordinated master planning for this property, the dedication of park land, and the gradual phasing of constructions to minimize impacts on City services; and 3) the annexation will result in no adverse impacts on the city's planned provision of public facilities and services.

2. The need for this property to be annexed is due to an approximate buildable land supply of 2 years presently within the City.
3. Although the property is larger, agricultural land, the proposed phasing scenario will ensure that the property is gradually taken out of agricultural production.
4. Access is adequate to the site and will be further improved by the improvements of the roadway in conjunction with development.
5. The City and other affected service-providing entities have the capability to amply provide the area of the proposed annexation with urban level services upon future development.
6. The annexation proposal is in compliance with other applicable City ordinances or policies.
7. The annexation proposal complies with all applicable sections of Oregon Revised Statutes.
8. No natural hazards have been identified on the site.
9. The effect of urbanization of the subject property to designated open space, scenic, historic or natural resource areas is limited, in that the open space designation and requirements as found in the Parks Master Plan will be adhered to.
10. No adverse economic impacts are likely to result from the annexation of the subject property.

RECOMMENDATION

THE CITY COUNCIL OF THE CITY OF CANBY APPROVES application ANN 03-03 and sends the application to the Canby voters for a final decision with the following understandings:

1. The zoning classification for the property will be R-1, Low Density Residential.
2. All service connection, recording costs and future development costs are to be borne by the property owners.
3. Advanced financing charges for the properties are to be paid at the time of connection to City Services.
4. All City and service provider regulations are to be adhered to at the time of connection of services and/or future development.
5. Sidewalks and utility easements are normally conditioned as a part of new development. As no new development is proposed, sidewalks and utility easements will be required upon any future land use application including issuance of a building permit or an application for redevelopment.
6. Any costs associated with the election not covered by the initial deposit shall be the

responsibility of the applicant/property owner. The costs shall be payable upon receipt of an itemized billing from the City of Canby.

7. Only portions of the property within the urban growth boundary shall be annexed into the City. The applicant shall provide the City with a complete legal description of the property as described in the application and adhering to the "top of bluff" guidelines from the Comprehensive Plan.
8. In order to be considered for annexation outside of the Comprehensive Plan's growth phasing priorities, the applicant has proposed several "special benefits to the city overall". Therefore, prior to the City's submittal of the annexation request to the Clackamas County Elections Division, the applicant must have evidence of a legally binding, development agreement recorded with the property which stipulates the following:
 - The applicant shall agree to dedicate a minimum of a two acre park to the City as a part of development of the land. In order to provide a special benefit to the City to justify annexation outside of the annexation priority system, the applicant agrees to dedicate this land and waive their right to request compensation for the land through a waiver in Parks System Development Charges credits. The applicant shall also agree, if requested by the Parks Department and Parks and Recreation Advisory Board, to develop the parks to City specifications. If development of the parks is required, the developer's cost of improvements shall be eligible for SDC credits as allowed by City codes.
 - The applicant shall agree to dedicate park land along the top of the bluff as shown on the site map and, if requested by the Parks Department and Parks and Recreation Advisory Board, to construct a path to City standards for its length. In order to provide a special benefit to the City to justify annexation outside of the annexation priority system, the applicant agrees to dedicate this land and waive their right to request compensation for the land through Parks System Development Charges credits. The cost of path construction or other amenities required by the Parks Department shall still be eligible for SDC credits as allowed by City Codes.
 - The applicant shall agree to construct the development with three or more phases, platting no more than 50 lots in any specific calendar year, which will result in the project completion in 3-4 years.

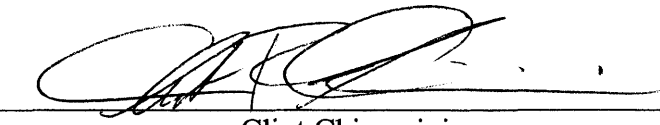
The City Attorney shall review the development agreement for compliance with the intent of this condition prior to recording.

I CERTIFY THAT THIS ORDER approving ANN 03-03 was presented to and APPROVED by the City Council of the City of Canby.

DATED this 16th day of July, 2003.



Melody Thompson
Mayor



Clint Chiavarini
Associate Planner

ATTEST:

ORAL DECISION - July 2, 2003

AYES: Blackwell, Newton, Oliver, Daniels

NOES: None

ABSTAIN: None

ABSENT: Carson, Johnson

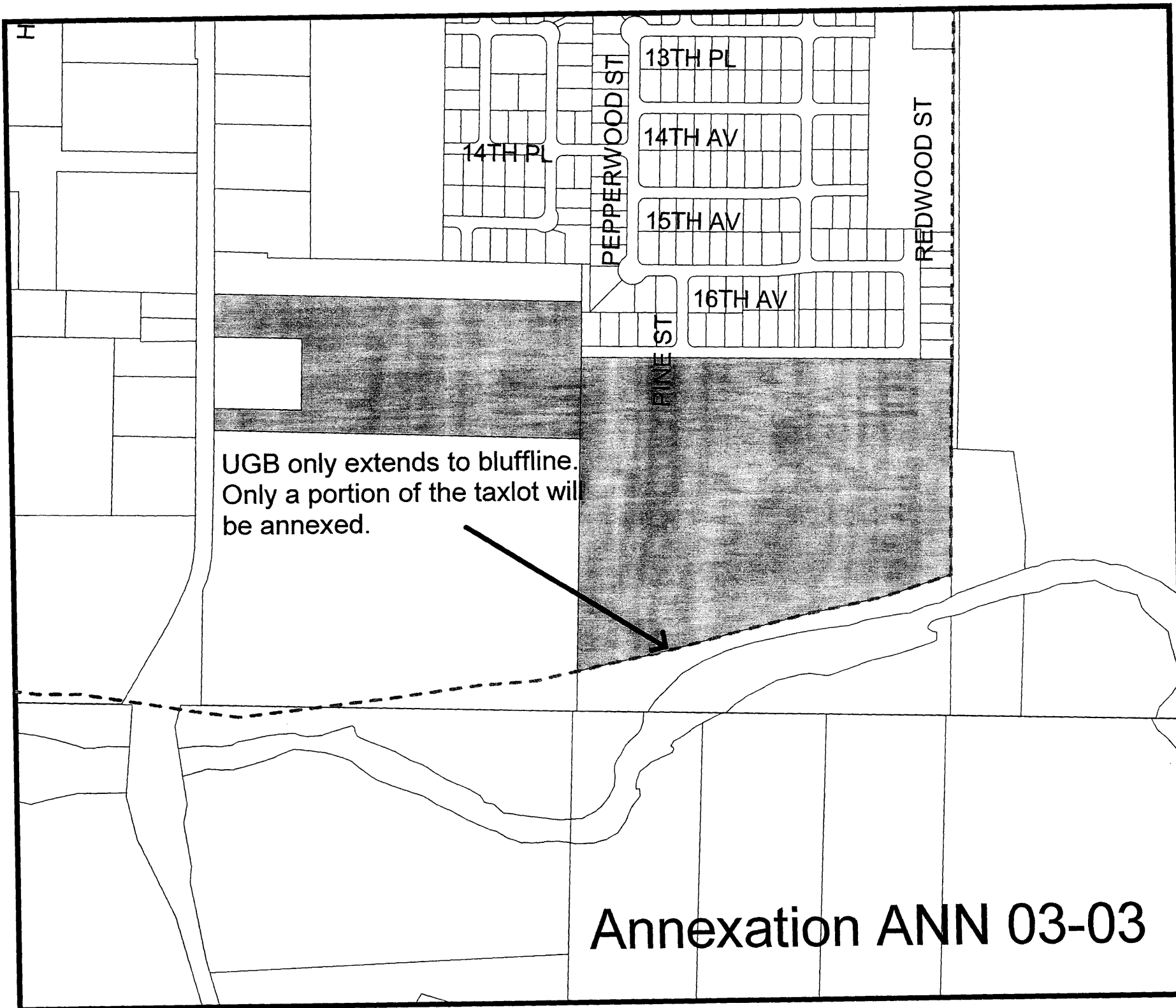
WRITTEN FINDINGS - July 16, 2003

AYES: Blackwell, Newton, Oliver, Daniels

NOES: none

ABSTAIN: Carson, Johnson

ABSENT: none



NOTICE OF CITY MEASURE ELECTION

CITY OF CANBY

Notice is hereby given that on Tuesday, November 4, 2003, an election will be held in the City of Canby, Clackamas County, Oregon. The following shall be the ballot title for the measure submitted to the City's voters on this date:

CAPTION: MEASURE APPROVING ANNEXATION OF 40.54 ACRES INTO CITY OF CANBY

QUESTION: SHALL 40.54 ACRES LOCATED SOUTH OF SE 17TH AVENUE AND EAST OF S. IVY BE ANNEXED INTO CANBY?

SUMMARY: Annexation is the legal process to bring property inside the City limits. Renaissance Development has filed an application asking the City to bring 40.54 acres of property into the City limits. The legal description of the property is Tax Lot 2300 of Tax Map 4-1E-03 and Tax Lot 1200 of Tax Map 4-1E-04D. The lots are located on the south side of SE 17th Avenue, east of S. Ivy Street and north of the Molalla River. This application has previously been approved by the Planning Commission and City Council. The property is vacant farmland. Tofte Farms subdivision borders on the north, but the remaining properties surrounding the parcels on the west, south and east are outside the current city limits. Approximately 4.5 acres of this property is designated priority "A" for annexation, approximately 0.5 acres is designated priority "B" and the remaining 35.54 acres is designated priority "C". Upon annexation, the City's Zoning Map calls for low density residential for all but one (1) acre of the parcel. One acre, which abuts S. Ivy Street, is to be zoned medium density residential. Although no development application is pending at this time, future development would allow approximately one hundred forty-seven (147) new single family lots. Any further development does require City review and must comply with land use laws.

The following authorized local government official hereby certifies that the above ballot title is true and complete.


Chaunee Seifried,

Canby City Recorder - Pro-Tem

7-16-03
Date

EXPLANATORY STATEMENT FOR VOTER'S PAMPHLET

**MEASURE APPROVING ANNEXATION OF 40.54 ACRES
INTO THE CITY OF CANBY**

Measure No. 3-112

Word Total 405 (500 max)

This measure would approve the annexation of 40.54 acres into the city limits of the City of Canby. The property which would be included within the City boundaries is known as Tax Lot 2300 of Tax Map 4-1E-03 and Tax Lot 1200 of Tax Map 4-1E-04D and is located generally in the south central part of the City. Tax Lots 2300 and 1200 are currently zoned EFU (Exclusive Farm Use) under County zoning. If annexation into the City is approved by the voters, all but one (1) acre of the property would be rezoned to Low Density Residential as required under the City's Comprehensive Land Use Plan (Comp Plan). The one remaining acre, which abuts S. Ivy Street, would be rezoned to Medium Density Residential.

Tax Lots 2300 and 1200 are owned by Harvey and D'Anne Tofte. The applicant is Renaissance Development. It has filed the application for annexation as allowed by Oregon law. The City, following its Charter, has put this matter before the voters for approval.

The property is located on the south side of SE 17th Avenue, east of S. Ivy Street and north of the Molalla River. The 40.54 acres is presently vacant farmland, and is bordered on the north by Tofte Farms subdivision. It is surrounded on the west, south and east by property that is not within the City limits. Under the current zoning regulations, future development would allow approximately one hundred forty-seven (147) lots to be developed. However, annexation alone does not set the future uses to be built on the property. Any further development would have to comply with state and local land use laws and would be subject to public review.

The Canby Comp Plan also designates properties for annexation as Priority "A", "B" or "C". Priority "A" properties shall generally be annexed prior to those areas shown as Priority "B" which, in turn, shall generally be annexed prior to those areas shown as Priority "C". The property has a split priority with a small amount (4.5 acres) being priority "A", some priority "B" (0.5 acres) and the majority being priority "C" (35.54 acres). The applicant has proposed dedication to the City of a 2 acre public park within the development and a strip for a pathway along the property's frontage above the Molalla River as a special benefit to the City. The Canby Planning Commission and Canby City Council approved the application unanimously.

CITY OF CANBY

Chaunee Seifried
Chaunee Seifried,
Canby City Recorder - Pro tem

7-16-03
Date